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RECENT IMPORTANT DECISIONS.

ACCIDENT INSURANCE—ACCIDENT OR DISEASE.—Plaintiff held the usual accident policy calling for liability on the part of the insurer for death, resulting from bodily injury, external, violent and accidental, independent of all other causes. A few months prior to his death, insured had had appendicitis, a reattack of which, brought on by a strain, caused his death. An operation revealed the fact that the appendix had continued in an abnormal condition. In an action on the policy, *Held*, that death was not caused by an accident, independent of all other causes. *Stanton v. Traveler's Ins. Co.* (1910), — Conn. —, 78 Atl. 317.

This decision would seem to be a logical interpretation of the unequivocal terms of these policies. Death due not to accident alone, but to both accident and disease, is not covered by them. 1 Cyc. 262. See 9 Mich. L. Rev. 362.

ANTENUPTIAL CONTRACT—WAIVER OF PERFORMANCE.—Appellee entered into an antenuptial contract, binding the husband to support and properly educate her minor daughter. Immediately after the marriage the daughter, then about twelve years of age, was sent out to work for a living under conditions making it impossible for her to attend school. The circumstances under which the daughter was sent out were such that a waiver of performance of the contract by the wife may be properly inferred. *Held*, that proof of waiver of performance of an agreement does not justify a finding of performance thereof, and that upon the husband's death the wife may claim her rights as heir. *Warner v. Warner* (1910), — Cal. —, 111 Pac. 352.

Either party may waive any part of a contract, either expressly or by acts or declarations indicating a relinquishment of any provision or part of a provision, but to constitute a waiver of the performance of a condition the acts relied upon must, as a rule, be inconsistent with an intention to insist upon performance. 9 Cyc. 646 et seq. A party cannot allege performance and then prove facts in excuse of performance. *Fauble & Smith v. Davis*, 48 Iowa 462; *Higgins v. Lee*, 16 Ill. 495. An agreement of this nature is subject to the rule which governs all simple contracts with regard to consideration and the consideration for the promise of each party is the abandonment by the other of his rights under the contract. ANSON, CONTRACTS, p. 258. done by both parties, the widow may demand dower even from a purchaser; Since in the principal case the rights under the antenuptial contract were abandoned by the wife. *Spiva v. Jeter*, 9 Rich. Eq. 434. The provisions in an antenuptial agreement which tend to bar the widow of dower will not be enforced unless the contract be fully executed in good faith by the husband. *Johnson v. Johnson's Adm'r*, 30 Mo. 72, 77 Am. Dec. 598.

BANKRUPTCY—ARREST OF BANKRUPT—EXEMPTION FROM ARREST.—One Turgeon was arrested and held in jail by the sheriff of the county upon a process issued on execution upon a debt provable and dischargeable in bankruptcy.